



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commissioners
Staff Director
Deputy Staff Director
General Counsel

FROM: Office of the Commission Secretary

A handwritten signature, possibly "WJB", is enclosed in a circle next to the "FROM" line.

DATE: August 27, 2002

SUBJECT: Statement Of Reasons for MUR 5061

Attached is a copy of the Statement Of Reasons for MUR 5061
signed by Chairman David M. Mason, Vice Chairman Karl J. Sandstrom,
Commissioner Danny L. McDonald, Commissioner Bradley A. Smith,
and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on
Monday, August 26, 2002 at 10:50 a.m.

cc: Vincent J. Convery, Jr.
OGC Docket (5)
Information Division
Press Office
Public Disclosure

Attachment

22-04-405-4641



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In re Brannen for Congress, et al.

MUR 5061

STATEMENT OF REASONS

On October 29, 2001, the Office of General Counsel recommended, pursuant to the Enforcement Priority System, that the Commission take no action in MUR 5061, other than closing the file, because the matter was less significant relative to other matters pending before the Commission. In lieu of approving this recommendation, the Commission, on November 6, 2001, voted unanimously¹ to find reason to believe that Brannen for Congress, Inc. and William H. Barry, III, as treasurer, violated 2 U.S.C. § 441d, send an admonishment letter, take no action with respect to all other respondents and close the file.

Complaint & Response

The Complaint alleged that Brannen for Congress distributed a campaign advertisement by mail without including the disclaimer required by 2 U.S.C. § 441d. Attached to the Complaint was a mail piece expressly advocating Barney Brannen's election and without any disclaimer. Barney Brannen responded, admitting to an "entirely technical" violation. He also attached a "volunteer response card" accompanying the mailing, which included his campaign's web site, telephone number, e-mail address and the words "Brannen for Congress, Inc., Treasurer William H. Barry III, Nashua, NH".

Analysis

General public political advertising containing express advocacy paid for by an authorized committee must contain a disclaimer stating that the communication was paid for by the authorized committee. 2 U.S.C. § 441d(a)(1). Given Respondent's admission

¹ Commissioner Darryl Wold voted to find reason to believe. Commissioner Toner replaced Commissioner Wold before the issuance of this statement.

to a disclaimer violation, the Commission found reason to believe that Brannen for Congress, Inc. violated 2 U.S.C. § 441d. Nonetheless, the violation was mitigated by the "volunteer response card" accompanying the mailing which would reduce the possibility of people being misled as to who paid for the mailing. In addition, the violation is less significant relative to other matters pending before the Commission and, thus, does not justify further action beyond an admonishment letter.

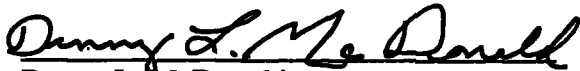
August 27, 2002



David M. Mason
Chairman

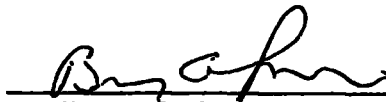


Karl J. Sandstrom
Vice Chairman



Danny L. McDonald
Commissioner

by F/S



Bradley A. Smith
Commissioner



Scott E. Thomas
Commissioner

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